

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

Toll Free Service)
Access Codes)

DOCKET FILE COPY ORIGINAL

CC Docket No. 95-155

RECEIVED

NOV - 1 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

COMMENTS OF LCI INTERNATIONAL, INC.

LCI International, Inc. ("LCI") submits these comments in response to the Notice of Proposed Rulemaking ["Notice"] (FCC 95-419) released by the Commission on October 5, 1995. LCI supports the Commission's goals of assuring the fair, equitable and orderly allocation of toll free numbers and transition to future toll free numbers without disruption of service or interruption in the availability of numbers.

LCI is a rapidly-growing interexchange carrier ("IXC") using an all-digital fiber optic network to originate switched and dedicated interexchange traffic in all 50 states. In recent years, LCI has achieved one of the highest internal revenue growth rates of any telecommunications company in the United States. LCI provides 800 and other toll free services to its customers and serves as the Responsible Organization ("RespOrg") for those customers. As a rapidly-growing smaller IXC with an already substantial base of toll free service customers, LCI offers the Commission a uniquely balanced perspective regarding the needs of toll free service customers, established providers serving those customers, and new entrants into the toll free services market.

No. of Copies rec'd
List ABCDE

4

Introduction

The Notice responds to a one-time exigency regarding toll free numbers: the imminent depletion of the 800 Numbering Plan Area ("NPA") code before the follow-on NPA code is commercially available. This has been a serious problem, and LCI applauds the Commission for proposing steps in the Notice to fix the problem and make sure that it never happens again. In particular, LCI supports the Commission's efforts to ensure that toll free 888 numbers are available as soon as possible, and to propose the rules necessary to ensure that other NPA codes (e.g., 877, 866 and so on) are available well before exhaustion of 888 numbers.

However, once the Commission adopts rules to ensure an efficient and orderly transition from one NPA code to another, there is less need for adopting further regulations tightening industry guidelines on the reservation and use of toll free numbers. While LCI does not dismiss concerns about warehousing and hoarding, the principal problem, in LCI's view, stemmed from the fact that legitimate customer demand for 800 numbers was outstripping the supply of those numbers before the industry had made the necessary preparations to implement 888 numbers. By correcting the supply-side problem, the Commission would largely remove the need to tighten existing guidelines on how service providers obtain, and how customers use, toll free numbers. In evaluating its own proposals and the comments filed in this proceeding, LCI urges the Commission to first address the rules

necessary to ensure an adequate and timely supply of toll free NPA codes, and, against that backdrop, only then to consider whether additional rules are necessary to address outstanding problems.

Lastly, LCI believes that it is not too soon for the Commission to begin examining the industry's options for further expanding the pool of toll free numbers when all remaining toll free relief codes are exhausted. In the past few years, new applications for toll free services have developed and grown quickly (e.g., personal toll free numbers). As the market is likely to develop even more new applications in the future, the Commission cannot assume that the existing relief codes will be adequate to meet the demand for toll free numbers over the longer term. If the industry has learned anything about toll free numbers, it is that adopting rules based on predictions about the development of toll free services serves only to limit the market. LCI recommends that the Commission begin immediately to work with industry fora to address the likely need for additional toll free numbers beyond the specified relief codes.

**I. THE COMMISSION SHOULD ADOPT RULES TO ENSURE THE
ADEQUATE AND TIMELY AVAILABILITY OF NEW NPA CODES**

LCI strongly supports the Commission's proposal to require that all network switches in the United States have the software needed to support all toll free codes by February, 1997. Further, LCI urges the FCC to make the initiation of one NPA code the "trigger" for deployment of the next relief NPA code. Because it is difficult to predict the market speed with which toll-free numbers will be used, the Commission should not wait until a

certain percentage of an NPA code is allocated before initiating efforts to make the next relief NPA code available. LCI also supports adopting a rigorous implementation schedule for the hardware and translation capabilities necessary to ensure that the next relief NPA code is available as soon as possible after the previous one is deployed.¹

Once the Commission adopts rules to ensure that the recent exhaust problem will never occur again, LCI believes that there is less need, if any need at all, for additional rules tightening the industry guidelines on how service providers obtain, and customers use, toll free numbers.

A. Escrow Requirement

The Commission seeks comment on the feasibility of establishing an escrow payment for reserving toll free numbers. LCI opposes any such requirement as unnecessary. Once service providers and customers know that the industry will not run out of toll free numbers, there will be few incentives for warehousing or hoarding. Rather, the current reservation fee of \$0.70 will be adequate to prevent any party from stockpiling toll free numbers.

Further, LCI is concerned that an escrow requirement could become a barrier to entry into the toll-free services marketplace. Such a requirement could deter small carriers from entering the market at all, or impose limits on how fast new

¹ If the Commission adopts so-called circuit breaker rules, LCI recommends that the Commission adopt an approach that imposes limitations upon number reservations once an exhaust date for an existing NPA code is near, not an approach regulating the day-to-day operations of the SMS/800 database.

entrants can grow. Also, the administrative difficulties and costs of an escrow requirement would far outweigh any foreseeable benefits. Therefore, LCI submits that the Commission should not adopt an escrow requirement.

B. LAG TIME

The Commission has asked for comment on whether it should adopt rules to reduce the lag time between reserving and converting toll-free numbers, or between disconnecting and resassigning numbers (i.e., the "aging" process). In an environment with a finite and rapidly-depleting supply of toll free numbers, such rules might be salutary. However, once the Commission adopts the rules necessary to ensure an adequate and timely transition to relief NPA codes, LCI believes that tightening industry guidelines is unnecessary and potentially harmful. For example, shortening the time period during which numbers can be suspended but not reactivated from 12 months to four months hurts those customers who have seasonal business operations and may need a toll free number only for a few months out of each year.

LCI is especially concerned that the Commission not reduce the current 60-day period between reserving and activating a number. Many customers have marketing plans for new toll free numbers which take 60 days to implement, and toll free service providers often need the full 60-day period to make the necessary arrangements for dedicated 800 circuits. In some cases, service providers encounter provisioning delays from local exchange

carriers that prevent the providers from activating the number any earlier. In LCI's view, a reservation period shorter than 60 days would interfere with the legitimate business needs for carriers and customers.

C. Personal Identification Numbers

The Commission asked parties to comment on whether it should establish a plan for using personal identification numbers ("PINs") for all or some toll free numbers. LCI opposes the mandatory use of PINs for services, such as those provided by IXC's, where PINs would limit service capabilities and potentially distort competitive conditions in the marketplace. So long as relief NPA codes will be commercially available in a timely fashion, the benefit of expanding the use of existing numbers among multiple users is far outweighed, in LCI's view, by the disadvantages of reducing service quality and competition through mandatory PIN usage.

For IXC's, using PINs will preclude certain services, such as call forwarding and caller identification services, which rely upon SS7 technology. PINs can have other disadvantages, such as their incompatibility with rotary telephones. In effect, mandatory PIN usage creates a non-premium or inferior quality product. Also, LCI believes that it would be difficult if not impossible for the Commission to craft rules for mandatory PIN usage which do not tilt the playing field in favor of established carriers with a large base of existing 800 customers. It is well-established that dialing parity is necessary for efficient

competition among established and new carriers. If the Commission adopts a mandatory PIN rule for new customers (or certain classes of new customers), there would be a disproportionate adverse impact upon new entrants into the toll free services market. However, if the Commission tries to force numerous existing customers of established carriers to use PINs in order to avoid discriminating against new entrants, the extent of customer inconvenience will far outweigh any benefits from mandatory PIN usage. Therefore, LCI recommends that the Commission permit PIN usage to continue developing on a voluntary basis within the confines of market forces.

**II. THE COMMISSION SHOULD ADOPT RULES TO ENSURE
AN ORDERLY TRANSITION TO RELIEF NPA CODES WITHOUT
PROVIDING UNNECESSARY ADVANTAGES TO INCUMBENTS**

A. Reserving Numbers

Given the current backlog of unmet demand for new toll-free numbers, LCI supports adopting rules to manage in an efficient and fair manner the transition to the new 888 numbers when they become available. In particular, LCI supports using an adjusted formula whereby the current allocation of 28,000 numbers would be doubled for the first week that 888 numbers are available and tripled for the second through sixth weeks.

Further, LCI would support capping a RespOrg's reserved numbers at 10% of its total working toll free numbers during periods where emergency conservation is required. However, after the 888 transition period, emergency conservation measures will no longer be necessary and the Commission should not adopt any rules

changing the current 15% cap on reserved numbers as a percentage of total working toll free numbers.

Lastly, LCI supports using lotteries to allocate a new 888 number among two or more parties who request that number. Auctioning such numbers would unfairly disadvantage smaller providers or new entrants with comparatively fewer financial resources, and LCI is not aware of any mechanism other than a lottery for equitably allocating such numbers.

B. Vanity Numbers

The Commission has asked parties to comment on whether to give holders of 800 vanity numbers a priority on equivalent numbers in the 888 NPA. LCI believes that the Commission should continue to adhere to a first-come, first-served policy for allocating toll free numbers. It is well-established that customers do not have ownership rights to their 800 or other telephone numbers. When existing 800 customers selected a particular number and invested resources in marketing that number, they did so with the understanding that they did not have any vested right in retaining that 800 number or transferring that number into relief NPA codes. Such customers should not be given a quasi-ownership interest in their 800 numbers by according them a priority in selecting 888 numbers. There is no empirical reason to believe that competitors will select 888 numbers in order to improperly take advantage of 800 customers' investments in the equivalent numbers, or that existing laws are inadequate to handle abusive practices.

Further, any attempt to give priority to vanity number holders would place the Commission on a slippery slope. LCI is not aware of any rigorous definition of a vanity number, with the result that giving priority to any 800 vanity customers will inevitably create pressures to extend a similar priority to all 800 customers. The result could be to prematurely deplete a large portion of the 888 NPA simply through existing 800 customers reserving equivalent 888 numbers as a defensive measure. Certainly, there are no technical or capacity reasons why existing 800 customers need to have the equivalent 888 numbers. Any growth in 800 calling can be fully accommodated on the existing 800 number through the simple expedient of adding more 800 circuits and trunks.

At a minimum, if the Commission adopts a right of first refusal for vanity number holders, it should insist upon a written authorization by the customer and impose a limited window of opportunity for current 800 vanity number holders to reserve the equivalent 888 number. In addition, the Commission should make clear that such priority extends only to the 888 NPA, not to follow-on relief codes. It would waste toll free numbers as a scarce public resource if an 800 customer could monopolize the equivalent number in all relief NPA codes.

C. High-Volume Numbers

The Commission also seeks comments on whether customers with 800 (or 888) numbers generating a high volume of calls should receive protection against NPA misdialing. While it is possible

that toll free customers will incur costs due to misdialed calls, LCI recommends that the Commission permit service providers and industry fora to address this problem in the first instance. The scope of this potential problem is not yet known, and it will be difficult even to measure the extent or impact of misdialed calls. Moreover, seeking to protect service providers or customers, such as through credits for access charges paid for misdialed calls, would be burdensome to implement and administer.

Conclusion

LCI respectfully submits that the Commission should adopt rules consistent with the recommendations herein.

Respectfully submitted,

LCI INTERNATIONAL, INC.

Douglas W. Kinkoph / RGA
Douglas W. Kinkoph
Director, Regulatory/Legislative
Affairs
LCI International, Inc.
8180 Greensboro Drive
Suite 800
McLean, VA 22102

November 1, 1995